

**Elder Abuse Law / Definition Work Group  
September 16, 2013**

**Facilitator:** Celene Gogerty, Polk County Attorney's Office

**Staff:** Kim Murphy, Dept. on Aging

**Members:** Anthony Carroll, AARP

Josy Gittler, National Health Law & Policy Resource Center,  
University of Iowa, College of Law

Wendy Dishman, Dept. Inspections & Appeals

Janet O'Brien, Iowa Division of Banking

Sharon Presnall, Iowa Bankers Association

Darrell Simmons, Dept. Public Safety

Ken Watkins, Iowa Health Care Association

Craig Goettsch, Insurance Dept. Securities Bureau

Bob Welsh, Consumer

**Objectives to Address:**

**I. Review 2012 Report Recommendations:**

- Elder Abuse Definition and Law
- Safeguards from Financial Exploitation
- Allocation of Service Dollars
- Laws Related to Powers of Attorney, Conservatorship Abuse & OSDM
- Multidisciplinary Teams (MDTS)
- Collaboration (elder abuse & dependent adult abuse)
- Membership of MDTs
- Definition of Elder Abuse (OAA, EAI, or provide a specific alternative)
- Address Financial Exploitation – Power of Attorney & Conservatorships (2012 Report)
- Changes in Statutes, Rules for Implementation

**II. Review LEAN Recommendations:**

**A. Elder Abuse Law & Definition**

- Create a law that includes both Dependent Adult Abuse & Elder Abuse but contains no distinction – creates a new category of “abuse”
  - Ensure it protects all Iowans age 60 and over,
  - Protects against all of the recognized categories of abuse as outlined by the National Centers on Elder Abuse. The current recognized categories of abuse are: physical abuse, emotional or psychological abuse, sexual abuse, financial or material exploitation, abandonment, neglect and self-neglect.
  - Requires mandatory reporting of abuse,

- Defines a penalty for failure to report abuse,
- Includes consequences for perpetrators,
- Provides for a central registry,
- Defines educational and training requirements of staff,
- States who will provide legal assistance;
- Includes service provisions; and
- Recognizes the Multi-Disciplinary Team as an essential element.

## **B. Multidisciplinary Team (MDT)**

- Define the purpose and objective of the MDT
  - MDT's are a vital part of an Elder Abuse System
  - Clarify who is responsible for each part of the MDT
- Clarify how many MDT's should be held around the state
  - 1 per region
  - 1 per each urban area
  - 1 per each alignment of rural counties
- Develop the structure of the MDT
  - Who are mandatory members (county attorney, DHS, Physician or representative from the health care field, city inspectors, case managers persons from the mental health system etc.)
  - Establish how frequently meetings should be held, if no one has a case to present, what would the purpose of the meetings, (possibly educational components)
  - How and when information should be communicated to the leader
  - Minutes sent to members

## **C. Code Changes**

- **Amend Iowa Code chapter 235E to remove delayed placement on the central abuse registry of those persons who appeal a determination of dependent adult abuse.** Currently, a person who appeals a determination of dependent adult abuse ("DAA") within 15 days of a finding of DAA is not placed on the central abuse registry until final agency action is taken. This allows persons found to have committed DAA to avoid placement on the registry for 6 months, if not more. During the time, the individual may be employed by facilities.
- **Add financial exploitation to the criminal code.** Currently, Iowa does not have a crime of "financial exploitation." A person who has financially exploited a vulnerable victim is often charged with dependent adult abuse, theft or another general criminal provision. The addition of a crime of "financial exploitation" would recognize the special characteristics of the victims and perpetrators of financial exploitation and of the crime itself. This would fit the crime to the victims and perpetrators rather than fitting victims and perpetrators to the crime.
- **Amend the confidentiality provisions of dependent adult abuse laws to allow sharing of information amongst relevant agencies, service providers and law enforcement.** Iowa Code chapters 235B and 235E each contain confidentiality

provisions which strictly limit the dissemination of abuse information. As a result of these provisions, information is not shared amongst state agencies and work and efforts are often duplicated. The provisions appear to address privacy concerns regarding alleged victims and perpetrators; however, these concerns can be still be addressed while allowing a greater—and controlled—sharing of information across agencies.

- **Remove required notices to facilities within Iowa Code chapter 235E.** Chapter 235E requires an inspector of a facility to notify the facility that the inspector is conducting an investigation of an alleged dependent adult abuse case. This notification requirement may put the victim in danger and allows the facility to avoid detection or interfere with a thorough investigation by the State. Such notification provisions in a regulatory environment are rare. The notification provisions appear only to serve a desire by a facility to limit potential legal issues which may be exposed as a result of the interview of staff and residents and the review of records.
- **Amend Iowa Code chapters 235B and 235E to authorize DHS and DIA to refer rejected cases to the AAAs or LTCO.** Currently, chapters 235B and 235E allow only for the referral of rejected cases to the relevant county attorney. Many county attorney offices are staffed at a level that barely allows them the time to address active cases, much less review rejected intakes for further action. Referral of the rejected cases to the AAAs or LTCO (along with the necessary changes to the confidentiality provisions) would provide the intake agencies with partners in the review process without taking time and resources that could be devoted to the investigation and prosecution of abuse cases. Further, the AAA or LTCO may be able to provide direct assistance whether the case is one suitable for criminal prosecution or not.

#### **D. Financial Institutions**

- It is recommended that Iowa Code Section 235B.3(2) be amended to add subsection (i): employee of a financial institution.
  - Section 235B.3(2) subsections list categories of occupations that are specifically required to report suspected dependent adult abuse. At this time, financial institutions are included as permissive and not mandatory reporters.
  - According to the New York State Elder Abuse Prevalence Study of 2010, financial exploitation may be the most common form of elder abuse. The New York study also found that there were forty-four times as many unreported cases of financial exploitation than were actually reported to authorities.
  - MetLife has conducted several studies of senior financial exploitation and they have concluded that American seniors annually lose nearly \$3 billion to financial exploitation.
  - The State of Utah estimated that financial exploitation costs its residents up to \$1 million per week.

- It has been the experience of the participants in the LEAN event that Iowa seniors are also suffering from rampant financial exploitation and financial institutions can play a key role in uncovering the abuses.

### **III. Identify Any Additional Recommendations**

### **IV. Develop Implementation Strategies as Per SF446 Mandates**

### **V. Draft Proposed Legislation for Legislative Interim Committee Approval**

### **VI. Other Considerations:**

- When To Meet
- How To Meet
- What to Address